

ORIGINAL

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable YVONNE GONZALEZ ROGERS, Judge

EPIC GAMES, INC.,)	Further Case Management
)	Conference
Plaintiff,)	
)	
vs.)	NO. C 20-05640 YGR
)	
APPLE, INC.,)	Pages 1 - 25
)	
Defendant.)	Oakland, California
_____)	Tuesday, January 14, 2025

REPORTER'S TRANSCRIPT OF ZOOM WEBINAR PROCEEDINGS

APPEARANCES VIA ZOOM WEBINAR:

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(Appearances continued next page)

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A P P E A R A N C E S (CONT'D.)

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Tuesday, January 14, 2025

10:59 a.m.

P R O C E E D I N G S

(Zoom Webinar)

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THE CLERK: Your Honor, now calling the civil matter
20-CV-5640-YGR Epic Games, Inc., versus Apple, Inc.

Parties please state your appearances for the record
starting with the plaintiff.

MR. BORNSTEIN: Good morning, Your Honor. Gary
Bornstein for Epic Games.

MR. EVEN: Good morning, Your Honor. Yonatan Even
for Epic.

MR. PERRY: Good morning, Your Honor. Mark Perry for
Apple.

MR. LO: Good morning, Your Honor. Jason Lo also for
Apple.

THE COURT: To the extent any of your teams are in
Southern California, we send our best wishes. Things are
pretty tragic down there.

Okay. And I -- you know, least one of the special masters
is from down there as well, so I don't know how that's
impacted anything.

It looks like from some of the filings you're a little bit
behind schedule. Apple's added more resources.

1 But why don't you go ahead and give me the update.

2 We'll start with plaintiffs.

3 **MR. EVEN:** Thank you, Your Honor.

4 So I think we are behind. We started later than we would
5 have liked. We had a bit of a unfortunate necessity to
6 withdraw by one of the special masters, as Your Honor is
7 aware.

8 We do have one of the panel who is evacuated for -- from
9 her home, and so that, obviously, is -- is an issue as well.

10 In terms of where we are on the numbers, that -- that I
11 think is where the rubber meets the road right now and where
12 the -- the real issue. So Apple has been rereviewing --
13 they've been slower than they were obligated to be or
14 committed to being, but they say that they were going to
15 finish by Friday.

16 They have taken down or downgraded quite an astounding
17 number of original privilege calls. And so yesterday at
18 least, they took the position that they believe that 17,000
19 documents are going to remain for review for the special
20 masters.

21 That means with -- by my math that 38,000 are going to be
22 downgraded. So about 69 or 70 percent of the documents are
23 just not privileged even by Apple's own rereview.

24 The special masters have been downgrading about 10 percent
25 of what they're seeing. And so that's a little bit more.

1 Even with these astounding numbers of downgrades, 17,000
2 is just something that the special masters have made very
3 clear to us last night is going to take them a long time to
4 review. They believe that they're at a clip or will be at a
5 clip of about a thousand a week. And so that's kind of where
6 we are right now.

7 **THE COURT:** A thousand a week collectively?

8 **MR. EVEN:** Correct. Collectively, not per -- and so
9 that is really where the -- the slowness in this comes from.
10 There's -- they can only do so much, which we fully
11 understand.

12 But the bottom line is, as -- as we told Your Honor from
13 the get-go, we -- we suspected that Apple has been engaged in
14 a campaign here of overwithholding. I think the numbers speak
15 for themselves on that. It's pretty clear that they have
16 been.

17 And we also said all along that Apple is playing this
18 because it's a win/win situation for them, and they are
19 unfortunately winning on that.

20 They have deprived us of the documents. They were
21 supposed to complete the production in late September. We are
22 in February. It doesn't seem like we're going to get all the
23 documents, if this goes through the end, until probably I
24 would say at least late February, if -- if not beyond.

25 But that -- but that is kind of where it is in a best-case

1 scenario, that everything goes according to plan and, you
2 know, our panel is in full swing, and they meet the numbers
3 that they think that they can meet.

4 **THE COURT:** Mr. Even, if it's 17,000, then isn't that
5 four-plus months?

6 **MR. EVEN:** I think it's going to be -- I -- well,
7 they're hopeful that they'll get a little bit higher than
8 that, and some documents they've already reviewed. They
9 started around the 30th of September -- 30th of January --
10 December. Forgive me. And so they are -- I want to say they
11 are, I think, about 1500 in. If -- if they really are staying
12 at the clip that they said then, yes, we are getting to late
13 March or April for that.

14 The only option we can think of for that particular
15 process, if the process remains, is to add others.

16 Alternatively, we can think of other sanctions. We -- we
17 told Magistrate Judge Hixson from the get-go that we thought
18 that the right -- the right approach here is that if somebody
19 abuses the privilege, they don't get to use it anymore.

20 We tried this process now with the special masters. It
21 seems to be causing a lot of delay and really rewarding Apple
22 for what we see as clear bad behavior.

23 **THE COURT:** So what, if anything, are you asking for?

24 **MR. EVEN:** I think in an ideal situation, Your Honor,
25 I think we will call it quits on this process and just say

1 that Apple needs to produce the documents. And they can then
2 raise maybe something for a particular document if we intend
3 to use something and they have particular strong assertion on
4 that or it's just a waiver and they don't get to object to
5 anything.

6 Other than that, we can try and add maybe one or two more
7 special masters, although that creates other issues because
8 there's a ramp-up period and hasn't been real easy finding
9 people who can do this.

10 And so I don't know that there is a good solution short of
11 a real sanction that will make it clear for Apple that this is
12 not just a business decision of not complying but continuing
13 to rake in the money without complying with the injunction.

14 **THE COURT:** Mr. Perry, are you going to respond?

15 **MR. PERRY:** Happy to respond, Your Honor.

16 So we started on this process with Epic's --

17 **THE COURT:** Mr. Perry, you're going to have to get
18 closer to your mic.

19 **MR. PERRY:** I'm sorry, Your Honor.

20 We started this process, as the Court will recall, with
21 Judge Hixson's recommendation that the parties employ a
22 special master protocol, to which we agreed.

23 Apple has rereviewed all of the documents withheld or --
24 or redacted as privilege, in light of the Court's orders. I
25 think this -- this may have been missed in Mr. Even's

1 presentation.

2 In other words, the rereviewers were instructed to apply
3 the Court's orders and guidance, including on these particular
4 documents, and to take a very careful and appropriate
5 approach. And -- and as a result, many of the documents have
6 been downgraded either from "withheld" to "redacted" or from
7 "redacted" to -- to "released" as the process was anticipated
8 to work.

9 Judge Hixson requested that Apple complete that rereview
10 by this Friday, January 17th, and we are on track to do that.

11 We finished more than 80 percent of the documents as of
12 this morning, and we -- we have a -- barring other natural
13 disasters, we will -- we will finish that by Friday.

14 The -- the documents remaining for review by the special
15 masters, they have been going through document by document.
16 They have so far sustained, as Mr. Evens -- Even indicated,
17 more than 90 percent of the calls. And the ones that they
18 have rejected, at least in the first set -- we just got the
19 second set this morning so we haven't gone through them yet.

20 The first set were largely nonprivileged attachments to
21 documents that they sustained the claim of privilege as to the
22 master document or as to part of the document in the family,
23 so it was a -- a partial rejection not -- not a wholesale
24 rejection.

25 In our view, in other words, the process is working. We

1 are carefully applying the Court's orders and guidance,
2 releasing to Epic those documents subject to them, asking the
3 special masters to review them, and -- and they are by and
4 large sustaining those claims.

5 That -- we did have a long conference with the special
6 masters last night at Judge Segal's request on a number of
7 procedural issues, substantive issues, and the process so far.
8 The special masters acknowledged that the process is going a
9 little slower than they anticipated.

10 Two of the special masters have actually been evacuated
11 from their homes as a result of the LA fires. That has been
12 a -- a significant drawback. They don't have their large
13 monitors and other equipment. That's just reality.

14 They are still working. They're still getting through
15 documents, but they do anticipate that they will pick up.

16 We have delivered to the special masters three sets of
17 reviewed documents. Another set goes in today and then the
18 final sets will go in early next week so that the documents
19 essentially are in the special masters' hands.

20 You know, by this Friday, Epic will have -- or early or --
21 or Monday, whenever the -- the production lags a little bit by
22 the completion of review.

23 You know, the downgraded documents are being delivered to
24 Epic periodically, so they have -- they have gotten them over
25 the course of the rereview. The rest of them are going to the

1 special master, who, as I said, the first set of reports
2 they've been largely upholding the claims. So I don't quite
3 see the basis for any allegation of bad faith or -- or request
4 for sanctions.

5 We have, of course, wish the process would move a little
6 faster, too. But, of course, we didn't -- we didn't ask for
7 the special master review. Epic did. We are volunteering --
8 we are participating.

9 **THE COURT:** Look. I'm going to interrupt you at this
10 point.

11 Having reviewed some of the claims, it was a stretch. So
12 part of the issue is that you should not have been making the
13 claims that you were making in the first place. That's the
14 issue.

15 **MR. PERRY:** Your Honor, as I said, we -- I
16 understood -- and we have taken the orders into account in the
17 rereview and -- and downgraded accordingly. We understand
18 that. We have applied those rulings in the rereview process.

19 **MR. EVEN:** Your Honor, if I may, that -- that's --
20 that is, a, not the issue. The issue is not the rereview.
21 The issue is that all of this should have been done prior to
22 September 30th, the first time that Apple reviewed these
23 documents. That's when they should have been careful and --
24 and taken the appropriate approach, as Mr. Perry says.

25 That's when they should have applied the right standard,

1 which I don't think that the document -- that Judge Hixson's
2 order or Your Honor's order changed in any material sense, nor
3 is it true to say that that is the -- the difference maker.

4 As of yesterday, we got the numbers. There is what's
5 called "category three," which is something that Apple from --
6 says from the get-go they should never have withheld versus
7 what is category two, which are documents that Apple says they
8 are now acknowledging they should not have withheld only
9 because of this Court's orders.

10 They had 17 and a half thousand documents that they admit
11 they should never have withheld versus about five and a half
12 thousand that are so-called because of this Court's orders.

13 So there's just a massive, massive number of documents
14 that they've withheld intentionally, most of which they admit
15 they never should have withheld, and some of which they're
16 still insisting that this Court somehow created new law, even
17 though it's, I think, pretty clear that it did not, that it's
18 just applying good old Ninth Circuit law on privilege and what
19 is and is not privileged. And we do think that that calls for
20 sanctions.

21 Seventy percent error rate isn't -- suggests this is not
22 an error. This is a system. This is what they set out to do.
23 I -- we were -- we would have been in a very different
24 situation, obviously, if the error rate they would have told
25 us now is 10 percent. I would say, okay, that mistakes

1 happen. It's an art not a science sometimes in privilege
2 cause.

3 Seventy percent according to their numbers before the
4 special masters have looked at it, and I don't even know if we
5 end up there. It -- it's just -- it's just an abuse of the
6 process. And it's an abuse that is costing us months and
7 months during which Apple is not complying and is not getting
8 to its reckoning on its blatant noncompliance with yet another
9 court order previous to that, namely, the injunction.

10 **THE COURT:** The 38,000, though, at this point you
11 have?

12 **MR. EVEN:** No, we do not have that yet, Your Honor.
13 We have out of that, I believe, 18,000 or -- thereabouts.

14 **THE COURT:** So why don't we have the 38,000 produced?

15 **MR. PERRY:** Your Honor, we make a production every
16 Monday or now Tuesday, based on the previous week's review, so
17 it's rolling review week by week.

18 I don't have the current numbers of what's been produced
19 to Epic. But I could get those. And we can certainly talk to
20 Mr. Even about that. He has every -- they -- Epic has
21 everything through yesterday that has been reviewed and
22 released, so -- and they will have --

23 (Simultaneous colloquy.)

24 **THE COURT:** You just told me that 38,000 were going
25 to be produced.

1 **MR. PERRY:** No. I'm sorry, Your Honor. I don't
2 think I ever said 38,000.

3 **THE COURT:** Well, Mr. Even, I think, said.

4 **MR. PERRY:** Yes, Your Honor.

5 **THE COURT:** So 17,000 are going to go to the special
6 masters.

7 **MR. PERRY:** Your Honor, would you like the numbers I
8 have as of today?

9 **THE COURT:** Well, that's why I'm here, isn't it?

10 **MR. PERRY:** As of today, we have reviewed 43,493
11 documents.

12 **THE COURT:** And I really wish you would get a better
13 microphone. I mean, it's just -- with all the technology that
14 your firm has, I don't understand why it's hard to hear you.

15 **MR. PERRY:** I'm sorry, Your Honor. I can log in from
16 a different device. I haven't had that problem before.

17 **THE COURT:** And I have hearing aids, so it can't be
18 that.

19 All right. Give me the number.

20 **MR. PERRY:** We have reviewed 43,493 documents. We
21 have downgraded 25,405. We have maintained privilege over
22 17,998. There are 9,920 documents remaining to be reviewed.
23 We expect to be done by Friday.

24 **THE COURT:** 9,000 -- say it again?

25 **MR. PERRY:** 9-9-2-0.

1 **THE COURT:** Have the 25,405 downgraded been produced?

2 **MR. PERRY:** Your Honor, many of them have. I don't
3 know how many, because some will still go out this week.

4 **MR. EVEN:** About 18, Your Honor.

5 And -- and to be clear, how I got to my number is that
6 because last night, Apple's counsel on a call with the special
7 masters told them that his best estimate is that they're going
8 to get 17,000 through end of the review. I'm not sure where
9 they have 17998 already. That would mean that the special
10 masters would have even more time with it, and that may bring
11 down the -- Apple's own downgrading from 70 percent to
12 68 percent or whatever it is. It's still an astounding
13 number.

14 But the point here is that Apple said 17,000, and Apple
15 said it has 55,000 documents. I was taking their number
16 rather than our 57,000.

17 I'm not sure why it's hard for Apple to give us a
18 definitive number of how many privileged documents they
19 withheld, but that's the world we live in. I went with their
20 numbers, 17 out of 55. That's the 69 percent. And that
21 suggests that 38,000 are going to be downgraded. That's just
22 the difference between 55 and 17.

23 **THE COURT:** Mr. Perry, who is the partner in charge
24 of the actual numbers?

25 **MR. PERRY:** It's myself, Mr. Wesneski of my law firm,

1 and Ms. Conforato [phonetic], one of our colleagues, working
2 with the numbers. And as I said, Mr. Even is exactly right.
3 We gave best estimates last night.

4 The numbers I just gave the Court are actuals as of this
5 morning. I mean, in other words, I -- I asked for the
6 specific documents from the document platform. This is what
7 we have completed as of this morning.

8 Each -- each batch, Your Honor, has been a little bit
9 different -- in other words, it has not run straight line
10 percentages from week to week that -- which is why we don't
11 know the exact numbers of the breakdown, other than what's
12 already done.

13 **THE COURT:** The 25,405 will be produced by today.

14 **MR. PERRY:** Yes, Your Honor.

15 **THE COURT:** How many is your team reviewing on a
16 daily basis? How are you going to get to the 9920 by Friday?

17 **MR. PERRY:** Your Honor, we've been averaging the last
18 week more than 15,000 a week, which is 2,000 in a lot a day.
19 And the check-in today was that we will get there by Friday.

20 I mean, the instruction -- the request by Judge Hixson was
21 to finish by Friday; therefore, the instructions to the team
22 are finish by Friday. We -- we will hit that. We have every
23 intention of hitting that barring some unforeseen
24 circumstance.

25 **THE COURT:** Between now and Friday, you will make

1 daily productions.

2 **MR. PERRY:** I'm not sure we can, Your Honor, because
3 the -- the review platform -- the reviewers have to review the
4 documents, put them back in the platform. They then have to
5 be stamped, redactions burned in, a bunch of thing -- it takes
6 us two or three days to make -- to get from the finish of the
7 review to the production because of the limitations of the
8 review platform.

9 And so -- so there's -- there's a lag, in other words,
10 between review and -- and the productions. That's why we've
11 been closing things out on Thursdays and producing them on
12 Monday or now Tuesday so that over the weekend that work can
13 be done.

14 I don't quite understand all the mechanics, but it's quite
15 complicated, apparently, to get from the reviewers into the
16 production status.

17 **THE COURT:** If they're doing it on a daily basis,
18 then why can't you produce on a daily basis?

19 **MR. PERRY:** Well, we finish the review, and then
20 there's a two-to-three-day lag between the completion of the
21 review and the production of those documents that were
22 reviewed. That's what I'm saying -- so we can do it daily,
23 but we can't do it, you know, tomorrow -- we can't do today's
24 documents tomorrow, is my understanding.

25 **THE COURT:** So the documents you're producing

1 tomorrow is --

2 He's gone.

3 Mr. Lo, do you understand the process?

4 **MR. LO:** Yes. My general understanding is that the
5 documents we are producing tomorrow, the review was finished
6 last week. And then once that review is finished, then it
7 takes a couple of days to do the stamping and to do all of the
8 processing, so that's why we had done the Tuesday production
9 for the prior.

10 **THE COURT:** How can it -- they're already stamped.
11 They had to be already stamped because you had to identify
12 them.

13 **MR. LO:** They are -- they are not stamped because
14 they are identified -- in the system, they are not already
15 stamped, Your Honor.

16 So when they are going out, these are going out
17 sequentially based on -- whatever Mr. Even receives today,
18 tomorrow's number will follow what -- what today's stamping
19 number is, so they're not prestamped.

20 **THE COURT:** How could you put them on a log --

21 **MR. LO:** We put them --

22 **THE COURT:** -- haven't identified them?

23 **MR. LO:** They have an internal identifier number, so
24 there is a -- there is a identifier number associated with
25 each document. But the documents themselves are not stamped.

1 **THE CLERK:** Excuse me, Counsel. Please ensure that
2 your microphones --

3 **THE COURT:** Is someone else in the room with you,
4 Mr. Lo? You're -- you were --

5 **MR. LO:** No.

6 **THE COURT:** We were hearing feedback.

7 **MR. PERRY:** Your Honor, I switched devices. I've
8 closed out the other device. I apologize for the microphone
9 issue. I hope that is more clear.

10 **THE COURT:** It is. Thank you.

11 **MR. PERRY:** Your Honor, to answer your question,
12 the -- the documents that were withheld as privileged are on
13 the log by log number. They're not stamped with Bates
14 numbers, so they have to be reprocessed as production
15 documents rather than as privileged documents. And then the
16 redactions, if there are redactions, also have to be burned
17 in, is another part of this. So there's steps in the process
18 of preparing the documents for production.

19 **THE COURT:** How many people do you have doing that,
20 Mr. Perry?

21 **MR. PERRY:** Your Honor, a vendor does most of that.
22 I don't know how many people are -- I mean, I don't know how
23 many they have doing it, but a lot. I mean -- I mean --

24 **THE COURT:** "A lot" doesn't tell me anything.

25 **MR. PERRY:** Well, Your --

1 Okay. Yes, Your Honor.

2 We -- we have enough that -- the protocol says we finish
3 on a Tues- -- on Thursday, and we produce them on the Monday.
4 So we have the -- we have the back end, the vendor side set
5 out to do that level of work for each week's production.

6 As I said, this week should be the last set of reviews, so
7 the final production would go out early next week with the
8 over-the-weekend, you know, stamping and all that. And then
9 we would be done with the production side of things.

10 And then under the current plan, you know, as I said, we
11 finish on Friday and the final production is made early next
12 week.

13 **THE COURT:** Mr. Even, given what you've seen so far,
14 how many days do you think it's going to take to get through
15 another evidence -- or to finish this evidentiary hearing?

16 **MR. EVEN:** So just -- just in terms of actual hearing
17 days?

18 **THE COURT:** Right. How many days?

19 **MR. EVEN:** I think in -- probably in two days, we can
20 finish it. Maybe three. I'll -- I'll defer to Mr. Bornstein,
21 if he has a different view. But I think that's the ballpark.

22 **MR. BORNSTEIN:** I think that's the right ballpark,
23 Your Honor. I was going to say three with the hope that we
24 can all be efficient and use fewer than that. But I would
25 hate to find ourselves setting aside only two and then have

1 Your Honor conclude that there was more that Your Honor needed
2 to hear.

3 **THE COURT:** Do we know who the witnesses will be?

4 **MR. BORNSTEIN:** We -- we certainly know some of them.
5 Names that will be familiar to Your Honor, who Your Honor has
6 seen, who we will want to have come back.

7 I don't think I can say we have a complete list at this
8 point given the pending document production.

9 **MR. EVEN:** I think we can say, Your Honor, that --
10 that Mr. Schiller and Mr. Oliver are going to be -- going to
11 have to come back for sure. Whether we need more than that or
12 not, I don't think we're there yet.

13 **MR. BORNSTEIN:** Yeah. And if it turns out, Your
14 Honor, that Mr. Schiller and Mr. Oliver are the full universe,
15 we certainly wouldn't contemplate three days, to be clear.

16 But we have identified other individuals who were clearly
17 involved in a material way in this process way through the
18 documents we've received.

19 We are discussing among ourselves, and we will, of course,
20 talk to Apple about that in due course.

21 **THE COURT:** When is Schiller in trial in Germany, I
22 think you said, or somewhere in Europe?

23 **MR. PERRY:** He's in the UK, Your Honor. The trial
24 started this month. I believe he is unavailable the -- the --
25 essentially the remainder of January for that trial.

1 I believe -- I believe the -- or the fact evidence portion
2 is scheduled to end by the end of January in -- in the UK
3 proceeding.

4 **THE COURT:** Mr. Even, how much time are you going to
5 want between getting the documents and being ready for the
6 hearing?

7 **MR. EVEN:** I think we can probably be ready in a
8 couple of weeks, Your Honor. We will be very efficient. And,
9 obviously, we already have some of the documents, so I -- I'm
10 not going to say it's two weeks from the very last document,
11 but from the point in time that we have the bulk, then two
12 weeks.

13 If there is some trickle that comes in after, I don't
14 think that is going to reset the time.

15 (Pause in the proceedings.)

16 **THE COURT:** Well, then I anticipate based upon what
17 I've heard that you'll have all the documents no later than
18 Tuesday. Schiller's not even available this month. Two weeks
19 from Tuesday takes us to February 4th. I will think about
20 instituting a protocol that may deal with any documents that
21 have not been reviewed by the special master.

22 **MR. BORNSTEIN:** Yes, your Honor. I was -- I was
23 going to ask the question with that time frame. We don't have
24 the documents Tuesday, but -- the ones that Apple is
25 maintaining the privilege calls over --

1 **THE COURT:** Right.

2 **MR. BORNSTEIN:** -- and which will be going to the
3 special master. Okay.

4 I wanted to make sure that hadn't -- that part of the
5 process hadn't gotten lost.

6 **THE COURT:** I actually have back-to-back trials,
7 which is why I'm hesitating.

8 (Pause in the proceedings.)

9 **THE COURT:** All right. Let me -- as you all know,
10 many civil cases resolve and they don't go to trial. And if
11 the ones that I have set don't go in February, then I'm going
12 to have a lot of flexibility to get you in in February.

13 I just -- when I lose flexibility is -- is mid-March
14 'cause that's a criminal case, and that will go to trial.

15 So --

16 **MR. BORNSTEIN:** Would it make sense, Your Honor,
17 then --

18 **THE COURT:** I think this is what I'm going to do --
19 Mr. Bornstein, just hold on.

20 **MR. BORNSTEIN:** Sure.

21 **THE COURT:** I expect the production to be completely
22 done by Tuesday. It would be helpful to know by the end of
23 the month -- and I'll give you -- I'll just write out an order
24 with some dates where the special masters are by the end of
25 the month.

1 What I might do is anything that they have not reviewed --
2 I might require all of that to be delivered to me to do my own
3 spot check so that I can determine whether I think it's a
4 10 percent rate or something more than that.

5 Clearly, as you saw, I was not -- most of what Apple was
6 trying to keep under the privilege, I rejected. So that being
7 said, given that the -- that the special masters' review at
8 this point is pretty consistent with what it is we have in
9 terms -- or seems to be consistent with Apple's review, even
10 belatedly, I'm not sure I'm willing to just turn them over,
11 Mr. Even. It's a 10 percent reduction rate.

12 On the other hand, my backstop is I'll take them myself,
13 and if I find much more than that, then perhaps I will have
14 them disclosed to the lawyers attorneys' eyes only or some
15 kind of protocol so that I can get them into your hands if
16 we're doing this in February.

17 Do you see what I'm saying?

18 **MR. EVEN:** I understand, Your Honor. And I
19 appreciate that.

20 **THE COURT:** And clearly Apple's delay -- and I do
21 think in part, Mr. Perry -- in large part, this is delay.
22 Given what I've seen, it was totally a tactic. And I will
23 consider that in terms of this hearing and in terms of my
24 findings.

25 So there will be consequences for the choices that your

1 client made, assuming I find you in contempt.

2 I should know by the end of the month. You all just need
3 to save February. You're working on this case anyway.

4 If my -- if my trial goes away -- I've got two. If they
5 go away, my expectation is that I'll set the hearing in
6 February, even -- even under the current -- the next trial I'm
7 doing -- it's a three-phase trial, so if the plaintiff does
8 not win in phase one, then the end of February opens up, so
9 most likely the later in February, the most likely -- more
10 likely it is.

11 My next trial doesn't start until March 3rd, so I would
12 save the last week of February.

13 **MR. EVEN:** Understood.

14 **THE COURT:** Okay? So we'll tentatively set -- as I
15 think -- I'm thinking out loud, we'll tentatively set the
16 evidentiary hearing to start February 24th.

17 Questions?

18 **MR. PERRY:** Your Honor you mentioned a -- a -- Mark
19 Perry for Apple.

20 You mentioned a report on the special masters' progress by
21 the end of the month. Do you have a --

22 **THE COURT:** I want numbers.

23 **MR. PERRY:** I understand. The 31st or the 30th?
24 I'm -- we will -- we will provide whatever the Court requests,
25 of course.

1 **THE COURT:** How about noon on the 31st? And they
2 don't have to do it. You can get the information, and you can
3 provide it to me.

4 **MR. PERRY:** We will do that, Your Honor.

5 **THE COURT:** -- to increase their -- don't mean to
6 increase their load. I just need to know where we are.

7 All right? Other questions?

8 **MR. EVEN:** None for Epic, Your Honor.

9 **MR. BORNSTEIN:** (Shakes head.)

10 **MR. PERRY:** Not for Apple, Your Honor.

11 **THE COURT:** All right. We'll be in touch. Thank you
12 very much.

13 We're adjourned.

14 **MR. BORNSTEIN:** Thank you, Your Honor.

15 **MR. EVEN:** Thank you, Your Honor.

16 **THE CLERK:** Court is adjourned.

17 (Proceedings were concluded at 11:37 A.M.)

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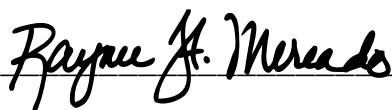
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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not financially nor otherwise interested in the outcome of the action.



Raynee H. Mercado, CSR, RMR, CRR, FCRR, CCRR

Tuesday, January 14, 2025